

**Summary of SB1188/HB1767 Wireless Facilities – Permitting and Siting**  
**Local Government Article 15 – New Subtitle 15. Wireless Facilities**

*The Chairmen of the Senate Finance Committee and House Economic Matters Committees have introduced SB1188 and HB1767, to significantly reduce or prohibit local government review and permitting authority over deployment of wireless service facilities. SB1188 has been referred to the **Senate Finance Committee** (see members at end of document). **A public hearing is scheduled for Tuesday March 20, 2018, at 1 pm, in the Senate Finance Committee Room in the Miller Senate Office Building.** Witnesses must sign up at least 30 minutes in advance, and 25 copies of written testimony must be provided no later than noon on March 20. HB1767 has not yet been assigned to a specific House Committee. Both the Senate and House versions are identical. Citations to specific sections of SB1188 are provided below.*

**SB1188 and HB1767:**

- *Do not require better wireless service in rural, underserved or unserved areas.*
- *Prohibit most local zoning review or approval of wireless facilities for poles up to 50 feet tall, antennas up to 6 cubic feet in volume, and equipment up to 28 cubic feet in volume.*
- *Impose the most restrictions on local zoning in single family residential areas, more than on roads or commercial areas, including prohibiting requiring information to demonstrate need for new poles.*
- *The Bills require local governments to allow wireless providers to attach equipment to local government poles and property at below market rates, and prohibits requiring public wifi, fiber, or conduit in return, even for use of property owned by the local government.*
- *Local taxpayers, businesses and residents would have to pay more for standard building and electrical permits than national communications companies that do not have to serve the entire community.*

**SB1188/HB1767 – Executive Summary**

1. The Bills do not empower local governments to require more broadband service in rural, unserved, and underserved areas. The bill states: “Nothing in this subtitle authorizes the State or local government to: (1) require wireless facility deployment; or (2) regulate wireless services.” 1-1511(d).
2. The Bills eliminate existing local government zoning and permitting authority over wireless communications facilities. “A local government does not have any authority over the design, engineering, construction, installation, or operation of a small wireless facility that is not located on property owned or controlled by the local government,” except to enforce safety codes. 1-1511(c).
3. On property outside of the right-of-way **in areas zoned for single family residential use, permits may not consider or require information about the application’s business decision regarding the type, location, or need for pole, wireless support structure, or wireless facilities** (i.e., poles, towers, antennas or equipment). 1-1505(d).
4. Local government zoning review or approval would not be required for:
  - Collocation (or attachment) of “small wireless facilities” on poles in the rights-of way and on property located outside of areas zoned for single family residential use. 1-1503(d)(3) and 1-1504(c). *Small wireless facilities include antennas up to 6 cu. ft. in volume and 28 cu. ft. of equipment, plus equipment enclosures, wiring and power meters).* 1-1501.
  - Installation in the right-of-way of new or modified poles 50 ft. in height, or 10 feet taller than the nearest pole in the right-of-way within 500 ft. of the new or modified pole. 1-1503(e).
  - On property outside of the right-of-way *in areas zoned for single family residential use*, collocation or replacement of antennas and equipment, wireless support structures designed to tall like traditional cell towers, or any poles, so long as the antennas, equipment, structures or poles are not increased by the greater of 20 ft. or 20% in height or width. 1-1505(c).

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5. Local governments **must allow**:

- Decorative poles (*i.e.*, street signs and street lights) to be replaced with 50 foot tall replacement poles that “reasonably conform” to the design of existing poles. 1-1503(f).
- In areas with underground utilities, installation of poles up to 50 ft. in height with 6 cu. ft. antennas, 28 cu. ft. of equipment, plus equipment enclosures, meters and wiring. 1-1503(g).
- Collocation of antennas up to 6 cu. ft. and up to 28 cu. ft. of equipment, plus equipment enclosures, meters and wiring:
  - In rights-of-way and on private property not in single family residential use zones. 1-1504(a).
  - On any local government pole 50 ft. or shorter, not in the public right-of-way, to anyone who gets a permit for small wireless facilities to collocate in the right-of-way or on private property outside in single family residential use zones. 1-1506(b). (These might be flag poles and outdoor field lights.)
  - On government buildings or towers 50 ft. or greater in height used for any commercial projects or uses. 1-1506(c).

6. Local government permits for small wireless facilities on poles and local government poles in the rights-of-way, 1-1505 and 1-1507, **may not require**:

- Require fiber, conduit, or pole space for the local government (including on poles owned by the local government).
- Use of any specific pole or category of poles.
- Minimum distances to limit placement or concentration of antennas and equipment on poles.
- Multiple antennas on a single pole.
- A permit to install “micro wireless facilities” (*i.e.*, 24 in. x 15 in. x 12 in. antennas and equipment with an 11 in. external antenna, 1-1501(h)) on cables strung between poles. 1-1504(l), 1-1507(d).

7. Permits:

- Are deemed granted (*i.e.*, **preemptively permitted**), if not reviewed and acted on within 60 days for small wireless facilities and poles in the right-of-way, 1-1504(h); 90 days for property in single family use zones for installation of new poles, antennas, or equipment, or changes greater than 20 ft. increases in height or width, 1-1505(f)(3)(i)(2); and 150 days for property in single family use zones for installation of traditional tall cell towers, 1-1505(f)(3)(i)(1).
- **Local governments may not recover actual costs and are required to subsidize wireless provider and infrastructure permits.** All permit fees are already limited to cost under Maryland case law, but under SB1188/HB1767, collocations permit fees are further capped, *regardless of actual cost*, at \$100 for the first five wireless facilities on an application and \$50 for each subsequent application, 1-1508(c), and there is no limit to the number of facilities that can be included in a single application for small wireless facilities and poles in the right-of-way, on property not zoned for residential single family use, and for local government poles in the right-of-way. 1-1504(h) and 1-1507(d).
- **May only be denied for safety reasons.**

8. If the local government does not enact a statute that complies with SB1188/HB1767, then a wireless provider can install and operate small wireless facilities in accordance with this subtitle.

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